

BRATTSTROM  
U.S. Serial No. 10/526,972RECEIVED  
CENTRAL FAX CENTER

SEP 15 2006

REMARKS

Claims 1-4 and 9-15 are currently pending in the present application. Claims 5-8 have been cancelled. Claims 1, 2, 4 and 9 have been amended in the expectation that the amendments will place this application in condition for allowance. The amendments do not introduce new matter within the meaning of 35 U.S.C. § 132. Accordingly, entry of the amendments is respectfully requested.

BRATTSTROEM  
U.S. Serial No. 10/526,972

### 1. Objection to the Specification

The Examiner has objected the abstract of the disclosure as exceeding the maximum limit of 150 words as set forth in MPEP §608.01(b). Applicant respectfully submits that the abstract has been deleted and replaced with a truncated version.

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw this objection to the specification.

### 2. Claim Objections

The Official Action states claims 1, 2 and 6 are objected to for various reasons. Applicant thanks the Examiner for her observations and suggestions in this regard.

Claim 1 has been amended to correct the typographical errors noted.

Claim 2 has been amended to correct the spelling of "alkanol". The spelling of this term has been corrected throughout the specification and claims.

Claim 6 has been cancelled.

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the objections to claims 1, 2 and 6.

**3. Rejection of Claims 7 & 8 under 35 U.S.C. § 101**

The Official Action states claims 7 and 8 are rejected under 35 U.S.C. § 101 as providing a use of an extract without recitation of any steps.

Applicant respectfully submits that claims 7 and 8 have been cancelled.

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection of claims 7 and 8.

**4. Rejection of Claims 2, 4 & 9**  
**under 35 U.S.C. § 112, 2d paragraph**

The Official Action states that claims 2, 4, and 9 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant respectfully traverses this rejection.

Claim 2 has been amended as described above in the remarks regarding the claim objections, i.e., the spelling of "alkanol" has been corrected in the claims and throughout the specification. Applicant submits that the previous spelling "alcanol" is frequently used in the art and such a spelling would be well recognized by one of skill in the art as denoting "alkanol", e.g., alkane-derived alcohols. This fact is shown by a conducting simultaneous search on the internet of both terms "alcanol" and "alkanol". One will notice that many documents

BRATTSTROEM  
U.S. Serial No. 10/526,972

are uncovered showing use of both terms. Further, "alkanol" is well-recognized in the art to the extent that it is part of the standard IUPAC nomenclature.

Based upon this amendment, Applicant is of the position that the meaning of the term  $C_{1-4}$  alkanol is now clear and readily conveys methanol, ethanol, propanol, and butanol, as well as the meaning of "such alkanol with water".

Claim 4 has been amended to remove the basis of the rejection, namely the term "about" has been removed from the claims.

Claim 9 has been amended to remove "PVP" and replace it with "poly(vinylpyrrolidone)".

As such, Applicant respectfully submits that the bases of these rejections have been removed. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection of claim 2, 4, and 9.

#### 5. Rejection of Claims 1-6 under 35 U.S.C. § 102(b)

The Official Action states that claims 1-6 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,207,164 to Kreuter, et al.

Applicant respectfully traverses this rejection. The reference of record does not teach each and every limitation of Applicant's claimed subject matter in the order claimed. In order for an anticipation rejection to be proper, the all of the claimed elements must be shown by the reference as required by

BRATTSTROEM  
U.S. Serial No. 10/526,972

the claim in the subject application. See, Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); and MPEP §2131.

Claim 1 has been amended to recite a method of treatment for treating climacteric and post menopausal distress, said limitation previously recited in claim 7. New claim 10 is directed to a method of treatment comprising administering a medicament as a substitute or complement of a hormone replacement therapy. However, the reference of record, U.S. Patent No. 6,207,164 (Kreuter, et al.) does not teach a method for treating climacteric and post menopausal distress or a method of treatment comprising administering a medicament as a substitute or complement of a hormone replacement therapy.

Further, the teachings of Kreuter, et al. are generic and directed to any number of plant species and polymers. No guidance or teaching has been provided in the reference with respect to the instant compositions and methods directed to *C. racemosa* and poly(vinylpyrrolidone). The extracts of *C. racemosa* are prone to precipitate during solvent removal because of the inherent high content of triterpene glycoside and/or triterpene saponines. It is clear that the teachings of Kreuter, et al. do not recognize this fact, since of the over one hundred plant materials listed in claim 15, most do not contain such a high content of triterpene glycoside and/or triterpene saponines as *C. racemosa*. Furthermore, the precipitation protecting effect of a wide variety of possible polymeric agents, ranging from many types of synthetic polymers up to an even broader variety of unnamed proteins and protein hydrosylates will not have the same advantageous properties as

BRATTSTROEM  
U.S. Serial No. 10/526,972

poly(vinylpyrrolidone). As such, it is clear the Kreuger, et al. is directed to a more generalized teaching than the instant subject matter.

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection of pending claims 1-6.

7. Rejection of Claim 9 under 35 U.S.C. § 102(a)

The Official Action states that claim 9 is rejected under 35 U.S.C. § 102(a) as being unpatentable in view of U.S. Published Application No. 2004/0071685 to Houston, et al.

Applicant respectfully traverses this rejection. The reference of record does not teach each and every limitation of Applicant's claimed subject matter in the order claimed. In order for an anticipation rejection to be proper, the all of the claimed elements must be shown by the reference as required by the claim in the subject application. See, Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990); and MPEP §2131.

Specifically, Houston, et al. do not teach the claimed elements in the order presented in claim 9. Specifically, claim 9 is directed to a medicament capable of substituting or complementing hormone therapy, wherein the medicament consists of an extract obtained by concentration of an extract fluid from *C. racemosa* in the present an effective amount of poly(vinylpyrrolidone). In contrast, Houston, et al. teaches

BEATTSTROEN  
U.S. Serial No. 10/526,972

that enzymes mixed with poly(vinylpyrrolidone) may be concomitantly administered with *C. racemosa*. The reference does not teach a composition obtained by the extraction and concentration process of claim 9, which requires that the concentration take place in the presence of the poly(vinylpyrrolidone).

RECEIVED  
CENTRAL FAX CENTER

SEP 15 2006

Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw this rejection of claim 9.

**CONCLUSION**

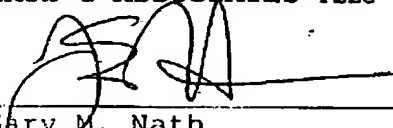
Claims 1-4 and 9-15 are currently pending in the present application. Applicants respectfully request the Examiner to reconsider and withdraw the outstanding rejections and allow all pending claims herein.

Respectfully submitted,

NATH & ASSOCIATES PLLC

Date:

May 30, 2006

  
\_\_\_\_\_  
Gary M. Nath  
Reg. No. 26,965  
Tanya E. Harkins  
Reg. No. 52,993  
Customer No. 20529

NATH & ASSOCIATES PLLC  
112 S. West Street  
Alexandria, VA 22314  
Telephone: (703) 548-6284